

Practitioner's Docket No. AP9673

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of: **Ruckert** Confirmation No. **3938**  
Application No.: **09/913,635** Group No.: **3683**  
Filed: **December 11, 2001** Examiner: **B. Pezzlo**  
For: **BRAKE PAD COMPRISING A RETAINING SPRING DEVICE**

**Commissioner for Patents  
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*Julie A. Barber*

Julie A. Barber

Date: April 26, 2004

**BRIEF ON APPEAL**

Honorable Sir:

This Appeal is taken from the Examiner's Final Rejection dated October 17, 2003 (Paper No. 16) of Claims 19 and 28-36 in the above-identified application. The Notice of Appeal was timely filed on March 17, 2004. Submitted herewith are three additional copies of this Appeal Brief.

04/30/2004 AWONDAF1 00000046 180013 09913635

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**(1) Real Party In Interest**

The Real Party In Interest is Continental Teves AG & Co. of Frankfurt, Federal Republic of Germany.

**(2) Related Appeals and Interferences**

None.

**(3) Status Of Claims**

Claims 19 and 28-36 are pending in the application and are involved in this Appeal. The present application was filed on August 16, 2001 with a Preliminary Amendment canceling originally-filed Claims 1-17 and adding Claims 18-30. In response to a first Office action dated November 20, 2002 (Paper No. 5), Claims 19, 22, 25, 29 and 30 were amended, and Claims 18, 20, 21, 23, 24 and 27 were canceled. In response to a final Office action dated March 14, 2003 (Paper No. 7), Applicant filed an Amendment After Final Rejection attempting to amend Claims 19, 22, 25, 26 and 29-31. In response to an Advisory Action (Paper No. 9) indicating that the Amendment After Final Rejection would not be entered, Applicant filed a Request For Reconsideration amending Claims 19, 22, 25, 26 and 29-31. In response to a first Office action of the RCE dated July 2, 2003 (Paper No. 12), Claims 19, 28, 29 and 31 were amended, and Claims 22, 25 and 26 were canceled, and Claims 32-36 were added. In response to a final Office action of the RCE dated October 17, 2003 (Paper No. 16), Applicant filed a Request For Reconsideration without amending the claims. In response to an Advisory Action dated February 19, 2004 (Paper No. 12022004), Appellants filed a Notice of Appeal on March 17, 2004. No claims have been allowed.

**(4) Status Of Amendments**

The last amendment that was entered was the response to the first Office action of the RCE amending Claims 19, 28, 29 and 31, canceling Claims 22, 25 and 26, and adding Claims 32-36. The Advisory Action dated February 19, 2004 (Paper No. 12022004) indicates that the Request For Reconsideration filed December 12, 2003 has been considered but does not place the application in condition for allowance.

### **(5) Summary Of The Invention**

An object of the present invention is to improve upon a brake pad with a retaining spring device in such a fashion as to overcome the disadvantages of the state of the art, especially by providing a solution with a short overall length that ensures a safe attachment of the brake pad to the piston and permits employment in different brake pad designs and different types of construction of spot-type disc brakes.

This object of the present invention is achieved because the brake pad comprises a retaining spring device with at least one spring element that engages a groove of the piston and is secured to the brake pad by means of a retaining element. Preferably, the brake pad comprises a carrier plate and a friction lining fitted thereto, and the retaining element is undetachably connected to the carrier plate.

According to a preferred aspect of the present invention shown in Figures 2a-c below, several spring elements 14, 14', 15, preferably two or three, are provided which each abut under spring bias in the piston groove 11. The individual spring elements can have a simpler and thus less costly design by the use of several spring elements. Further, the different functions of the retaining spring device 7 can be split up among the individual spring elements 14, 14', 15. This permits the well-defined rating and configuration of the spring elements. In this arrangement, two first spring elements 14, 14', which are arranged preferably opposite each other with respect to the piston axis 18, serve for the axial attachment of the brake pad 1 on the piston 5. Another second spring element 15 applies a spring force to the brake pad 1 vertically to the piston axis 18. This clamps the brake pad 1 radially with the brake caliper 8 and, thus, also with the brake carrier 9 by way of the piston 5. A rattle-free abutment of the brake pad 1 on the brake carrier 9 is thereby ensured.

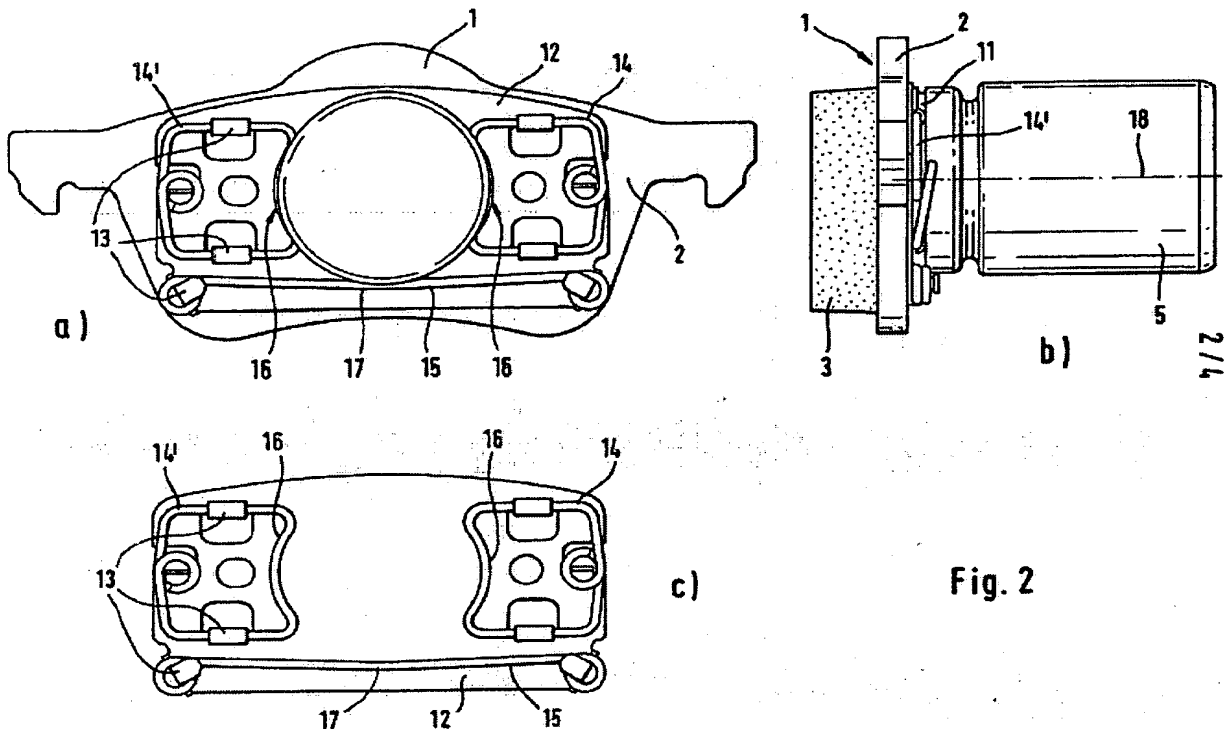


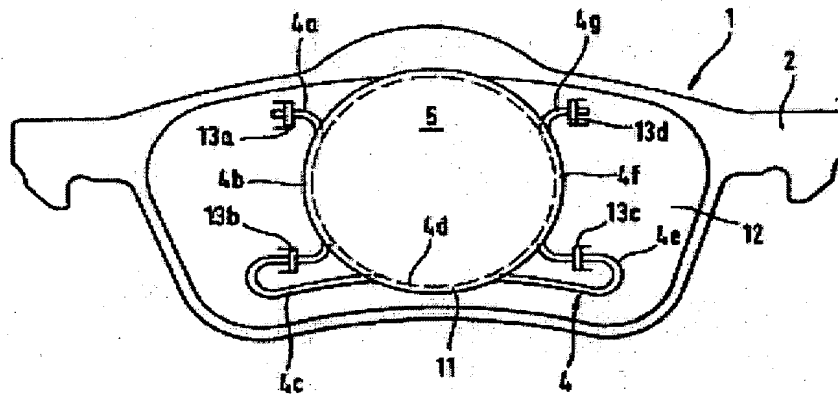
Fig. 2

In an alternate embodiment of the present invention shown in Figures 3a and 3b below, the retaining spring device 7 comprises only one single spring element 4 which, with at least two spring portions 4b, 4f, abuts under spring bias in the groove 11 of the piston 5 or, respectively, is locked in the groove 11. This permits applying different spring forces to the brake pad 1, depending on the number of spring portions arranged in the groove. Apart from an axial retaining force which retains the brake pad in abutment on the piston, an additional force component can be applied in a radial direction to the brake pad due to the spring element 4d. This force component in a radial direction, with respect to the brake disc axis, is used to clamp the brake pads 1, a brake caliper and, as the case may be, a brake carrier 12 with respect to each other in order to suppress undesirable rattle noise. Thus, the retaining spring device 7 fulfils a suitable double function.

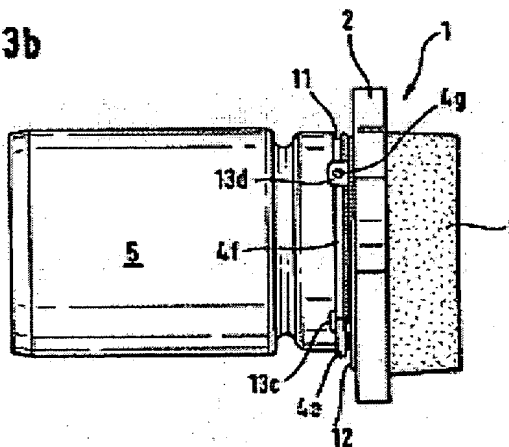
Two generally U-shaped portions 4c, 4e are designed between the three spring portions 4b, 4d, 4f and pressed against the carrier plate 2 of the brake pad 1 by way of retaining members 13b, 13c. The spring element 4 still further comprises two free end

portions 4a, 4g that extend vertically to the piston axis away from the mirror-inverted first spring portions 4b, 4f and are pressed against the brake pad 1 by means of an eyelet-type retaining member 13a, 13d. On the side of the carrier plate 2 remote from the friction lining 3, a retaining plate 12 is fastened on which the retaining members 13a-d are shaped. Thus, the spring element 4 is retained on the brake pad 1 by way of the retaining plate 12.

**Fig. 3a**



**Fig. 3b**

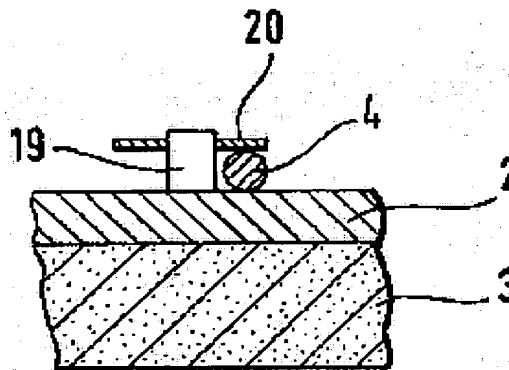


In a preferred aspect of the present invention, the retaining spring device 7 is combined with a conventional damping arrangement on the brake pad for noise suppression. To this end, the retaining plate 12, which is undetachably connected to the brake pad 1 and on

which at least one spring element 7 is fastened, is designed as a damping plate or any other damping layer.

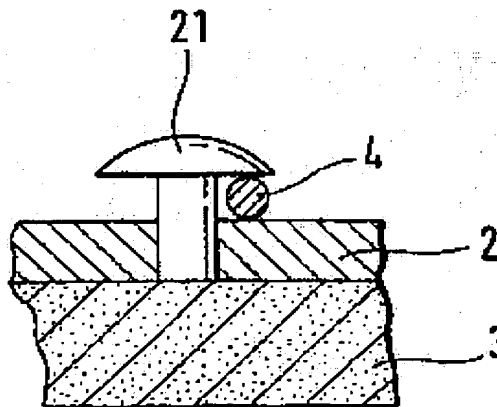
As shown in Figure 4 below, the carrier plate 2 on its side remote from the friction lining 3 has a projection 19 in which a locking washer 20 grips a portion of the spring element 4, thereby retaining the spring element 4 on the brake pad 1. It is preferred that such projections 19 are formed as a punched-through projection or similar elevation on the carrier plate 2 or on the retaining plate 12.

**Fig. 4**



As shown in Figure 5 below, an alternative embodiment of the present invention, a retaining pin or rivet 21 is fastened in the carrier plate 2 and also extends over the spring element 4, thereby fastening the spring element 4 to the brake pad 1.

**Fig. 5**



The retaining spring device 7 of the present invention is especially suitable due to its

functionality and further necessitates only a small axial mounting space. This permits universal application of the retaining spring device 7 of the present invention with different brake pad designs and in different types of construction of spot-type disc brakes, for example, fist-type caliper brakes, fixed-type caliper brakes, electromechanic brakes, combined service and parking brakes, or the like.

**(6) Issues**

- A. Does Claim 34 satisfy the requirements of 35 USC §112, second paragraph?
- B. Are Claims 19, 28, 29 and 31-35 unpatentable under 35 USC §102(b) as being anticipated by Winter (DE 197 05 803, hereinafter “Winter”)?
- C. Are Claims 30 and 36 unpatentable under 35 USC §103(a) over Winter in view of Verbeeten et al. (U.S. Patent No. 5,816,370, hereinafter “Verbeeten”)?

**(7) Grouping Of Claims**

Claims 30, 31, 32, 34, 35 and 36 are separately patentable. Dependent Claims 28 and 29 stand or fall with independent Claim 31. Dependent Claim 33 stands or falls with independent Claim 32.

**(8) Argument**

A. Claim 34 Satisfies The Requirements of 35 USC §112, Second Paragraph

The Examiner rejects Claim 34 under 35 USC §112, second paragraph asserting that “it is unclear what the two generally U-shaped portions are portions of.” *Paragraph 2 of the final Office action*. Appellant respectfully disagrees with this assertion.

As defined in Claim 34, the two generally U-shaped portions are arranged between the three spring portions. Referring to Figure 3a above, the two generally U-shaped portions 4c, 4e (as defined in Paragraph 27 of the Substitute Specification: Clean Copy) are located between the three spring portions 4b, 4d, 4f and are pressed against the carrier plate 2 of the brake pad 1 by way of retaining members 13b, 13c. Further, Appellant believes that at least this feature is not disclosed, taught or suggested in the applied art.

In view of the foregoing, Appellant believes that Claim 34 is definite and particularly points out that the two generally U-shaped portions are arranged between the three spring

portions and distinctly claims the subject matter that Appellant regards as the invention. Thus, the Examiner's rejection of Claim 34 under 35 U.S.C. §112, second paragraph should be reversed.

B. Claims 19, 28, 29 and 31-35 Are Not Anticipated by Winter

The Examiner rejects Claims 19, 28, 29 and 31-35 under 35 USC §102(b) over Winter (DE 197 05 803, hereinafter "Winter"). The rejection is respectfully traversed.

Independent Claim 31 specifies, *inter alia*, a brake pad and brake piston assembly comprising a brake piston having an outer surface encircled by a circumferential groove, and a retaining spring coupled to a brake pad, wherein the retaining spring engages the circumferential piston groove, thereby detachably coupling the brake pad to the piston. The retaining spring includes two spring elements arranged opposite each other with respect to the piston axis, each spring element having a first spring portion which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and a third spring element arranged between said two spring elements having a second spring portion which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis.

Independent Claim 32 specifies, *inter alia*, a brake pad and brake piston assembly including the feature of a retaining spring comprising a spring element including three spring portions, two of the three spring portions arranged opposite each other with respect to the piston axis which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and the third spring portion arranged between the other two spring portions which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis.

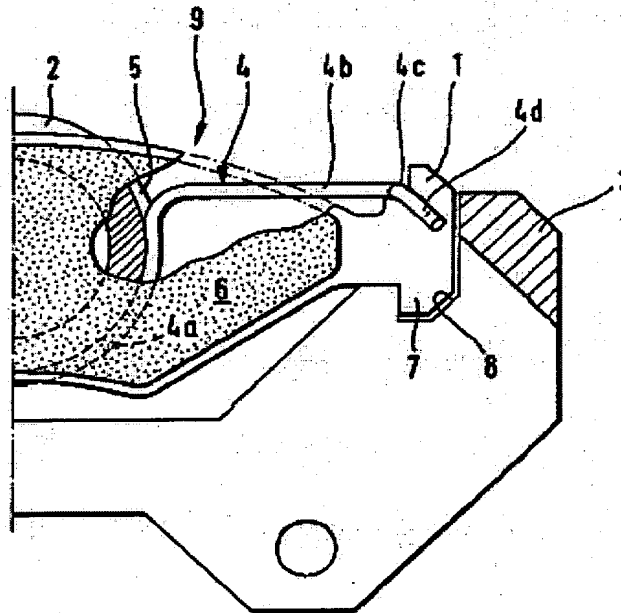
Winter discloses a single spring element 4 disposed with a groove 5 of a piston 2. The spring element 4 includes a semi-circular section 4a that is in contact with the piston 2, an arm 4b and a section 4c, 4d that is bent out and down, respectively. *See Figs. 1 and 2 below.*

In Winter, the spring element 4 is used to fix a carrier plate 1 of a brake pad 9 in position on the piston 2 and to suppress rattling when the brake is not applied. To this end,

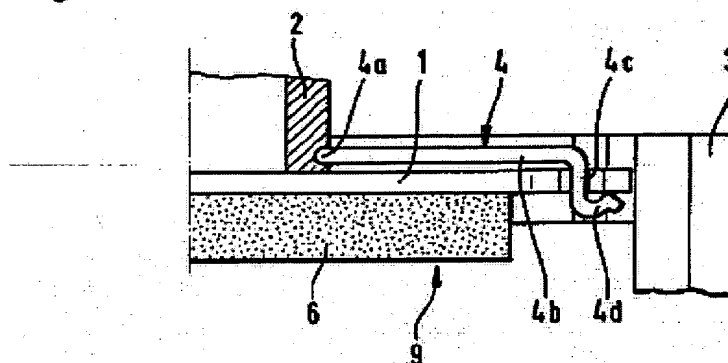


the spring element 4 includes a semi-circular section 4a that is in contact with the piston 2, and two mirror-image arms 4b extending to the outer radial section 7 of the carrier plate 1. Each arm 4b ends in a section 4c, 4d that is bent out and down, respectively. The shaping and the spring force of these spring arms 4b are conformed to one another so that the brake shoe 9 is urged axially against the end surface of the piston 2 and vertically against the brake 3. Due to the fact that the two downwardly bent-off parts 4c of the arms 4b are inserted into both ends of the carrier plate 1 and at least in part extend over both ends of the carrier plate 1, the spring element 4 must be specifically designed to be adapted to the respective carrier plate 1. Thus, the possibility of a different bias by the spring element 4 is limited. *See Figs. 1 and 2.*

**Fig. 1**



**Fig. 2**



In Paragraph 4 of the final Office action dated October 17, 2003, the Examiner rejected Claims 19, 28, 29 and 31-35 stating:

“Winter discloses a brake pad and brake piston assembly including a brake piston having an axis and an outer surface encircled by a circumferential groove (see Fig. 2) a retaining spring 4 coupled to a brake pad, wherein the retaining spring engages the circumferential piston groove thereby detachably coupling the brake pad to the piston, wherein the retaining spring includes two spring elements arranged opposite each other with respect to the piston axis, each spring element having a first spring portion 4a which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and a third spring element arranged between said two spring elements having a second spring portion which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis.”

In response to Appellant’s arguments, the Examiner argues that Claims 31 and 32 are silent as to whether the elements or portions are separate from each other. *See Paragraph 7 of the final Office action and Advisory Action.* Appellants strongly disagree with this assertion by the Examiner.

Claim 31 is directed to a preferred aspect of the present invention, wherein the retaining spring includes at least three spring elements 14, 14’, 15, and wherein each element abuts the piston under spring bias in the piston groove 11. *See Fig. 1 above.* The individual spring elements have a simpler and, thus less costly design. Further, the different functions of the retaining spring device 7 with several spring elements can be split up among the individual spring elements 14, 14’, 15. This permits the well-defined rating and configuration of the spring elements. In this arrangement, two spring elements 14, 14’, which

are arranged preferably opposite each other with respect to the piston axis 18, serve for the axial attachment of the brake pad on the piston. Another second spring element 15 applies a spring force to the brake pad vertically to the abutment surface between the brake pad and the piston and, hence, is used for the radial clamping engagement of the brake pad, brake caliper and, as the case may be, brake carrier. *See Paragraph [0009] of the Substitute Specification.*

By definition, an “element” means “a distinct part of a composite device”.<sup>1</sup> Thus, the specification does not indicate that Appellants are using the term “element” more broadly than its dictionary definition, as asserted by the Examiner.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See MPEP §2131.* Contrary to the Examiner that all of the elements of Claim 31 are disclosed in Winter, at least the feature of a retaining spring including two spring elements arranged opposite each other with respect to the piston axis, each spring element having a first spring portion which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and a third spring element arranged between said two spring elements having a second spring portion which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis, is not disclosed, taught or suggested in Winter, so the rejection is unsupported by the art and should be reversed.

For at least this reason, Claim 31 is allowable over the applied art. Claims 19, 28 and 29, which depend from Claim 31, are likewise allowable over the applied art. Thus, the Examiner’s rejection of Claims 19, 28, 29 and 31 under 35 U.S.C. §102(b) over the applied art should be reversed.

Claim 32 is directed to an alternative aspect of the invention in which the spring element has an open design and includes several spring portions 4b, 4d, 4f, which are especially separated from one another, which abut in the piston groove 11 and apply differently directed force components to the brake pad 1. *See Fig. 3a above.* As a whole, the number of required components can be minimized favorably by the described variations with only one single spring element 4. *See Paragraph [0008] of the Substitute Specification.*

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<sup>1</sup> Merriam-Webster Online Dictionary. A copy of this dictionary definition is provided in Exhibit A.

By definition, a “portion” means “an often limited part set off or abstracted from a whole”.<sup>2</sup> Thus, the specification does not indicate that Appellants are using the term “portion” more broadly other than its dictionary definition, as asserted by the Examiner.

In addition, contrary to the Examiner’s assertion that all of the elements of Claim 32 are disclosed in Winter, at least the feature of a retaining spring including a spring element 4 including three spring portions 4b, 4d, 4f, two of the three spring portions (4b, 4f) arranged opposite each other with respect to the piston axis 18, which applies an axial spring force at a contact point location on opposite sides of the piston, to urge the brake pad 1 against the piston 5, and the third spring portion 4d arranged between the other two spring portions 4b, 4f, which applies a radial spring force to the brake pad at one contact point location in a vertical direction, which is generally perpendicular to the piston axis 18, is not disclosed, taught or suggested in Winter, so the rejection is unsupported by the art and should be reversed.

For at least this reason, Claim 32 is allowable over the applied art. Claims 33-35, which depend from Claim 32, are likewise allowable over the applied art. Thus, the Examiner’s rejection of Claims 32-35 under 35 U.S.C. §102(b) over the applied art should be reversed.

Claim 34, which depends from Claim 32, specifies, *inter alia*, the feature of a brake pad further comprising two generally U-shaped portions 4c, 4e arranged between the three spring portions 4b, 4d, 4f, as illustrated in Figures 3a and 3b.

This feature is not taught or suggested by Winter. For at least this additional reason, the Examiner’s rejection of Claim 34 under 35 U.S.C. §102(b) over the applied art should be reversed.

Claim 35, which depends from Claim 34, further specifies, *inter alia*, the feature of a brake pad further comprising at least one retaining member 13b, 13c configured as a hook or eyelet for pressing the two generally U-shaped portions 4c, 4e against the carrier plate 2, as illustrated in Figures 3a and 3b.

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<sup>2</sup> *Ibid.* A copy of this dictionary definition is provided in Exhibit B.

In no way whatsoever is at least this feature disclosed, taught or suggested in Winter. For at least this additional reason, the Examiner's rejection of Claim 35 under 35 U.S.C. §102(b) over the applied art should be reversed.

C. Claims 30 and 36 Are Not Obvious In View Of Winter And Verbeeten

Claim 30, which depends from Claim 31, specifies, *inter alia*, the feature of a brake pad further comprising a retaining plate 12 configured as a damping plate, as illustrated in Figures 2a and 2c.

Claim 36, which depends from Claim 32, specifies, *inter alia*, the feature of a brake pad further comprising a retaining plate 12 configured as a damping plate, as illustrated in Figures 3a and 3b.

According to MPEP §2143, to establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Linter*, 458 F.2d 1013, 173 USPQ 560, 562 (CCPA 1972). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Finally, the applied reference must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Further, the fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). Further, it is well established that even if all elements of a claim are disclosed in the prior art, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill would have been prompted to combine the teachings of the prior art to arrive at the claimed invention. *In Re Regal*, 188 U.S.P.Q. 136,139 n.6 (C.C.P.A. 1975).

Appellant agrees with the Examiner that there is no mention of a retaining plate in Winter. In fact, the spring 4 of Winter is not fastened at the brake pad 6, but is a separate part, which can be fixed to the piston 2. See col. 3, line 10 of DE 197 05 803.

However, in Verbeeten, the spring 13 does not work on the piston, but on the housing. Therefore, the spring 13 does not bias the brake pad in an axial direction. The spring 13 of Verbeeten is not fastened to the noise-damping damping plate 15 (or “retaining” plate), but to the carrier or support plate 11. See Figs. 2 and 3 below. The spring 13 is also fixed on the wrong side of the carrier plate 11, namely on the side of the brake lining and not on the side of the piston.

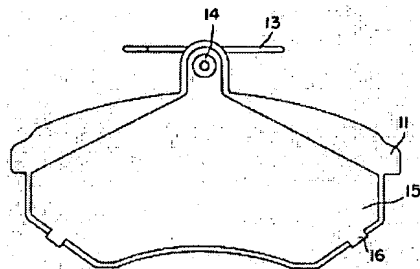


FIG. 2

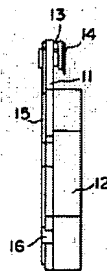


FIG. 3

In view of the foregoing, it is respectfully submitted that the combination of Winter and Verbeeten does not disclose all the claim limitations, namely at least the feature of a retaining plate configured as a damping plate as recited in Claims 30 and 36. Thus, the Office action fails to establish a *prima facie* case of obviousness. See MPEP §2143.

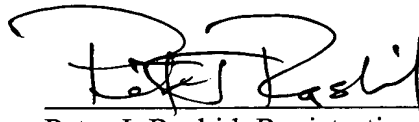
For at least this reason, Claims 30 and 36 allowable over the applied art, taken singly or in combination. Thus, the Examiner's rejection of Claims 30 and 36 under 35 U.S.C. §103(a) over the applied art should be reversed.

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Attorney Docket No.: AP9673

**(9) Conclusion**

For the above reasons, Appellant respectfully submits that Claims 9 and 28-36 are patentable over the applied art, taken singly or in combination. Therefore, the Board is respectfully requested to reverse the Examiner's decision.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter J. Rashid", is written over a horizontal line.

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**Appendix Of Claims On Appeal - Claims 19 and 28-36**

Claim 19: The brake pad as claimed in claim 31, wherein the brake pad includes a carrier plate and a friction lining applied thereto.

Claim 28: The brake pad of claim 31, wherein one of the two spring elements and the third spring element are configured as a sheet-metal spring or a wire spring.

Claim 29: The brake pad of claim 31, further comprising at least one retaining member configured as a hook or eyelet for embracing one of the spring elements.

Claim 30: The brake pad of claim 31, further comprising a retaining plate configured as a damping plate.

Claim 31: Brake pad and brake piston assembly, comprising:  
a brake piston having an axis and an outer surface encircled by a circumferential groove,  
a retaining spring coupled to a brake pad, wherein said retaining spring engages said circumferential piston groove, thereby detachably coupling the brake pad to the piston,

wherein the retaining spring includes two spring elements arranged opposite each other with respect to the piston axis, each spring element having a first spring portion which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and a third spring element arranged between said two spring elements having a second spring portion which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis.

Claim 32: Brake pad and brake piston assembly, comprising:  
a brake piston having an axis and an outer surface encircled by a circumferential groove,



a retaining spring coupled to a brake pad, wherein said retaining spring engages said circumferential piston groove, thereby detachably coupling the brake pad to the piston,

wherein the retaining spring includes a spring element including three spring portions, two of the three spring portions arranged opposite each other with respect to the piston axis which applies an axial spring force at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and the third spring portion arranged between the other two spring portions which applies a radial spring force to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis.

Claim 33: The brake pad as claimed in claim 32, wherein the brake pad includes a carrier plate and a friction lining applied thereto.

Claim 34: The brake pad of claim 34<sup>3</sup>, further comprising two generally U-shaped portions arranged between the three spring portions.

Claim 35: The brake pad of claim 35<sup>4</sup>, further comprising at least one retaining member configured as a hook or eyelet for pressing the two generally U-shaped portions against the carrier plate.

Claim 36: The brake pad of claim 32, further comprising a retaining plate configured as a damping plate.

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<sup>3</sup> Claim 34 should be dependent from Claim 32, rather than from itself. This typographical error was not noticed during the prosecution of this application.

<sup>4</sup> Claim 35 should be dependent from Claim 34, rather than from itself. This typographical error was not noticed during the prosecution of this application.



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Main Entry: **el·e·ment**

Pronunciation: 'e-l&-m&nt

Function: *noun*

Etymology: Middle English, from Old French & Latin; Old French, from Latin *elementum*

**1 a** : any of the four substances air, water, fire, and earth formerly believed to compose the physical universe **b**

*plural* : weather conditions; *especially* : violent or severe weather <battling the *elements*> **c** : the state or sphere natural or suited to a person or thing <at school she was in her *element*>

**2** : a constituent part: as *a plural* : the simplest principles of a subject of study : **RUDIMENTS** **b** (1) : a part of a geometric magnitude <an infinitesimal *element* of volume> (2) : a generator of a geometric figure; *also* : a line or line segment contained in the surface of a cone or cylinder (3) : a basic member of a mathematical or logical class or set (4) : one of the individual entries in a mathematical matrix or determinant **c** : one of a number of distinct groups composing a larger group or community <the criminal *element* in the city> **d** (1) : one of the necessary data or values on which calculations or conclusions are based (2) : one of the factors determining the outcome of a process **e** : any of more than 100 fundamental substances that consist of atoms of only one kind and that singly or in combination constitute all matter **f** : a distinct part of a composite device **g** : a subdivision of a military unit

**3 plural** : the bread and wine used in the Eucharist

**synonyms** ELEMENT, COMPONENT, CONSTITUENT, INGREDIENT mean one of the parts of a compound or complex whole. ELEMENT applies to any such part and often connotes irreducible simplicity <the basic *elements* of geometry>. COMPONENT and CONSTITUENT may designate any of the substances (whether elements or compounds) or

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the qualities that enter into the makeup of a complex product; COMPONENT stresses its separate entity or distinguishable character <the *components* of a stereo system>. CONSTITUENT stresses its essential and formative character <the *constituents* of a chemical compound>. INGREDIENT applies to any of the substances which when combined form a particular mixture (as a medicine or alloy) <the *ingredients* of a cocktail>.  
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portion[1,noun]   
portion[2,transitive verb]

Main Entry: **1portion** 

Pronunciation: 'pOr-sh&n, 'por-

Function: *noun*

Etymology: Middle English, from Old French, from Latin *portion-*, *portio*; akin to Latin *part-*, *pars* part

**1** : an individual's part or share of something: as **a** : a share received by gift or inheritance **b** : **DOWRY** **c** : enough food especially of one kind to serve one person at one meal

**2** : an individual's lot, fate, or fortune : one's share of good and evil

**3** : an often limited part set off or abstracted from a whole  
<give but that *portion* which yourself proposed -- Shakespeare>

**synonym** see PART, FATE

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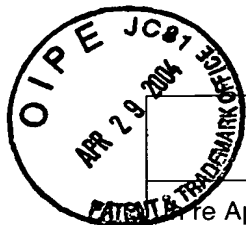
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IFW #3683

# TRANSMITTAL OF APPEAL BRIEF

Docket No.  
64098-0882

Re Application of: Helmut Ruckert

Application No.  
09/913,635-Conf. #3938

Filing Date  
February 18, 2000

Examiner  
B. A. Pezzlo

Group Art Unit  
3683

Invention: (Prothmann) Brake Pad Comprising a Retaining Spring Device

## TO THE COMMISSIONER OF PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed: March 17, 2004.

The fee for filing this Appeal Brief is 330.00.

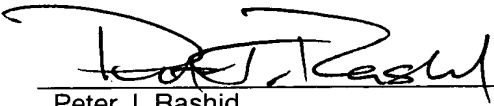
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Peter J. Rashid  
Attorney Reg. No. : 39,464  
RADER, FISHMAN & GRAUER PLLC  
39533 Woodward Avenue  
Suite 140  
Bloomfield Hills, Michigan 48304  
(248) 594-0624

Dated: April 26, 2004

### Appeal Brief Transmittal

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 26, 2004

Signature:  (Julie A. Barber)